

**Danning Jiang, Esq. (CA BAR No. 196985)**  
**LAW OFFICES OF DANNING JIANG**  
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**Attorneys for Plaintiff**  
**China Intl Travel Services (USA), Inc.**

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO, CALIFORNIA**

<b>CHINA INTL TRAVEL SERVICES</b>	)	<b>CASE NO. C 08-01293 MEJ</b>
<b>(USA), INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>NOTICE AND MOTION TO</b>
	)	<b>WITHDRAW AS COUNSEL</b>
<b>Vs.</b>	)	
	)	
<b>CHINA &amp; ASIA TRAVEL SERVICE,</b>	)	<b>Date: June 26, 2008</b>
<b>INC., D/B/A CHINA INTERNATIONAL )</b>	)	<b>Time: 10:00 a.m.</b>
<b>TRAVEL SERVICE (USA), and DOES 1- )</b>	)	<b>Place: Courtroom B, 15th Floor</b>
<b>10, inclusive,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

**NOTICE OF MOTION**

**TO EACH PARTY AND TO THE COUNSEL OF RECORD FOR EACH PARTY:**

PLEASE TAKE NOTICE that, on June 26, 2008 at 10:00 a.m., or as soon thereafter as the matter can be heard, on the Law and Motion Calendar, at the above-captioned court, in Courtroom B, 15th Floor, of the San Francisco Division of the United District Court for the Northern District of California, located at 450 Golden Gate Avenue, San Francisco, California, Law Offices of Danning Jiang (“Attorney”), attorneys for Plaintiff China Intl Travel Services

(USA), Inc. ("Plaintiff"), will move this Court to allow it to withdraw from the case and to provide Plaintiff with an appropriate time to engage new counsel.

This motion is made pursuant to Civil Local Rule 11-5 and California Rules of Professional Conduct, Rule 3-700, and is based on the attached memorandum of points and authorities, declaration of Danning Jiang, and the records and files in this action.

### **CONCISE STATEMENT OF RELIEF SOUGHT**

Attorney seeks leave to withdraw as counsel for Plaintiff in the above-captioned matter.

### **POINTS AND AUTHORITIES**

Recently, Plaintiff has instructed Attorney to cease all services in this action. Attorney has advised Plaintiff to seek representation by a new counsel and has sought written consent from Plaintiff for substitution. Plaintiff has refused to sign on a substitution of counsel. It has become impossible for Attorney to effectively represent Plaintiff. Accordingly, pursuant to Civil Local Rule 11-5 and California Rules of Professional Conduct, Rule 3-700, Attorney requests that it be permitted to withdraw from the case. In the mean time, Attorney requests that Plaintiff is allow an appropriate time to retain a new counsel.

#### **A. Plaintiff has instructed Attorney to cease all services in this action.**

The grounds on which an attorney may withdraw are stated in California Rules of Professional Conduct, Rule 3-700. Those grounds include the case where "[t]he client knowingly and freely assents to termination of the employment"<sup>1</sup> and where the client "by other conduct renders it unreasonably difficult for the member to carry out the employment effectively."<sup>2</sup>

Plaintiff has instructed Attorney to cease all services in this matter. In essence, Plaintiff has "knowingly and freely assents to termination of the employment". The only issue is that Plaintiff has refused to sign on the substitution of counsel document. Plaintiff's instruction of ceasing all services and refusal of signing the substitution "renders it unreasonably difficult for the member to carry out the employment effectively". Attorney is unable to carry out an

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<sup>1</sup> California Rules of Professional Conduct, Rule 3-700(C)(5).

<sup>2</sup> California Rules of Professional Conduct, Rule 3-700(C)(1)(d).

effective representation of Plaintiff.

**B. Attorney has advised Plaintiff to seek new counsel, has advised the case deadlines, and has notified Attorney's intent to file this motion.**

Attorney has advised Plaintiff that it should retain a new counsel in this matter.

Attorney has notified Plaintiff that this motion would be filed since Plaintiff had refused to sign on the substitution of counsel.

Attorney has also advised Plaintiff the summary judgment discovery schedule and hearing as following:

ACTION	COMPLETION DATE
Discovery responses (interrogatories, admissions, document demands, etc.) due	May 27, 2008
Last day for completion of depositions	June 30, 2008
Plaintiff's Opposition due	July 17, 2008
Defendant's Reply due	July 24, 2008
Hearing for Motion	August 7, 2008, at 10:00 a.m.

Attorney requests that the Court grants its request to withdraw as counsel of record and allow Plaintiff a reasonable time, approximately 30 days, to engage a new counsel.

Dated: May 16, 2008

**LAW OFFICES OF DANNING JIANG**

By: /s/ Danning Jiang  
 DANNING JIANG, Esq.  
 Attorneys for Plaintiff  
 China Intl Travel Services (USA), Inc.

**Danning Jiang, Esq. (CA BAR No. 196985)**  
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**Attorneys for Plaintiff**  
**China Intl Travel Services (USA), Inc.**

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO, CALIFORNIA**

<b>CHINA INTL TRAVEL SERVICES</b>	)	<b>CASE NO. C 08-01293 MEJ</b>
<b>(USA), INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>DECLARATION OF DANNING</b>
	)	<b>JIANG IN SUPPORT OF MOTION</b>
<b>Vs.</b>	)	<b>TO WITHDRAW AS COUNSEL</b>
	)	
<b>CHINA &amp; ASIA TRAVEL SERVICE,</b>	)	
<b>INC., D/B/A CHINA INTERNATIONAL</b>	)	<b>Date: June 26, 2008</b>
<b>TRAVEL SERVICE (USA), and DOES 1-</b>	)	<b>Time: 10:00 a.m.</b>
<b>10, inclusive,</b>	)	<b>Place: Courtroom B, 15th Floor</b>
	)	
<b>Defendants.</b>	)	
	)	

I, DANNING JIANG, declare:

1. I am the attorney for Plaintiff, China Intl Travel Services (USA), Inc., in this action. The statements made in this declaration are based upon my own personal knowledge, except as to those matters stated on information or belief; however, as to those matters stated on information and belief, I believe them to be true.

2. I submit this declaration in support of the motion to withdraw as counsel filed herewith.

3. Recently, my client has instructed this firm to cease all services in this action. I have advised my client to seek representation by a new counsel. I have also prepared a substitution of counsel document for my client to sign. My client has refused to sign on the substitution. It has become impossible for this firm to effectively represent Plaintiff.

4. I have advised my client the summary judgment discovery schedule and hearing as following:

ACTION	COMPLETION DATE
Discovery responses (interrogatories, admissions, document demands, etc.) due	May 27, 2008
Last day for completion of depositions	June 30, 2008
Plaintiff's Opposition due	July 17, 2008
Defendant's Reply due	July 24, 2008
Hearing for Motion	August 7, 2008, at 10:00 a.m.

5. I have notified my client that I would file this motion since client had refused to sign on the substitution of counsel.

6. Based on my knowledge, Plaintiff has not engaged a new counsel in this matter. I would respectfully request this Court to grant our request for withdrawal and allow Plaintiff 30 days to engage a new counsel.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct, and that this Declaration was executed in San Jose, California.

Date: May 16, 2008

/s/ Danning Jiang  
DANNING JIANG

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**Attorneys for Plaintiff**  
**China Intl Travel Services (USA), Inc.**

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO, CALIFORNIA**

<b>CHINA INTL TRAVEL SERVICES</b>	)	<b>CASE NO. C 08-01293 MEJ</b>
<b>(USA), INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>[PROPOSED] ORDER GRANTING</b>
	)	<b>MOTION TO WITHDRAW AS</b>
<b>Vs.</b>	)	<b>COUNSEL</b>
	)	
<b>CHINA &amp; ASIA TRAVEL SERVICE,</b>	)	
<b>INC., D/B/A CHINA INTERNATIONAL</b>	)	<b>Date: June 26, 2008</b>
<b>TRAVEL SERVICE (USA), and DOES 1-</b>	)	<b>Time: 10:00 a.m.</b>
<b>10, inclusive,</b>	)	<b>Place: Courtroom B, 15th Floor</b>
	)	
<b>Defendants.</b>	)	
	)	

The Court has reviewed the Motion to Withdraw as Counsel filed by counsel for Plaintiff China Intl Travel Services (USA), Inc., along with any opposition and reply papers, and has considered the argument made at the hearing. The motion is GRANTED, as follows:

1) Law Offices of Danning Jiang may withdraw as counsel for Plaintiff China Intl Travel Services (USA), Inc. The withdrawal is effective upon service of a copy of this order to Plaintiff and other parties.

1           2)     Plaintiff China Intl Travel Services (USA), Inc. is ordered to assign replacement  
2 counsel within \_\_\_\_\_ days of the date of this order.

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8           IT IS SO ORDERED.

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12     Dated: \_\_\_\_\_, 2008

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13     MARIA-ELENA JAMES  
14     United States Magistrate Judge  
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**Attorneys for Plaintiff**  
**China Intl Travel Services (USA), Inc.**

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO, CALIFORNIA**

<b>CHINA INTL TRAVEL SERVICES</b>	)	<b>CASE NO. C 08-01293 MEJ</b>
<b>(USA), INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>PROOF OF SERVICE</b>
	)	
<b>Vs.</b>	)	
	)	<b>Date: June 26, 2008</b>
<b>CHINA &amp; ASIA TRAVEL SERVICE,</b>	)	<b>Time: 10:00 a.m.</b>
<b>INC., D/B/A CHINA INTERNATIONAL )</b>	)	<b>Place: Courtroom B, 15th Floor</b>
<b>TRAVEL SERVICE (USA), and DOES 1-)</b>	)	
<b>10, inclusive,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

I declare that I am over the age of eighteen (18) and not a party to this action. My business address is 271 North First Street, San Jose, CA 95113,

On May 16, 2008, I served the following document(s):

**NOTICE AND MOTION TO WITHDRAW AS COUNSEL**

**DECLARATION OF DANNING JIANG IN SUPPORT OF MOTION TO WITHDRAW AS COUNSEL**



**[PROPOSED] ORDER GRANTING MOTION TO WITHDRAW AS COUNSEL**

on the interested parties in this action by placing a true and correct copy of document(s) in a sealed envelope addressed as follows:

Attorneys for Defendant:

Robert F. McCauley, Esq.  
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP  
3300 Hillview Avenue  
Palo Alto, CA 94304 eMail: robert.mccauley@finnegan.com

Jin Zhang, Esq.  
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP  
3300 Hillview Avenue  
Palo Alto, CA 94304 eMail: jin.zhang@finnegan.com

Christopher Foley, Esq.  
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP  
Two Freedom Square  
11955 Freedom Drive, Suite 800  
Reston, VA 20190-5675 eMail: christopher.foley@finnegan.com

Plaintiff:

Andy Jun Yu, General Manager  
China Intl Travel Services (USA), Inc.  
1273 Rosita Road  
Pacifica, CA 94044

**(X)** **[U.S. MAIL]** I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence is deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed and, with postage thereon fully prepaid, placed for collection and mailing on this date, following ordinary business practices in the United States mailed in San Jose, California.

**( )** **[OVERNIGHT DELIVERY]** Via Federal Express or similar overnight courier service, by depositing in a box or other facility regularly maintained by such overnight delivery service, or delivering such envelope to a courier or driver authorized by said overnight delivery service to receive documents, in an envelope designated by said overnight delivery service with delivery fees paid or provided for, addressed to the above-named persons on whom it is to be served.

**( )** **[PERSONAL SERVICE]** I caused to be delivered by hand the above-referenced document(s) to the above-named person(s).

**( )** **[FACSIMILE]** Via facsimile machine, I caused the above-referenced document(s) to be transmitted to the person(s) and facsimile number(s) shown above.

**( )** **[EMAIL]** Via internet, I caused the above-referenced document(s) to be transmitted to the person(s) and email address(es) shown above.

Executed on May 16, 2008, in San Jose, California.

( ) (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(X) (FEDERAL) I declare that I was retained by the office of a member of the bar of this court at whose direction the service was made.

/s/ Ming Ji  
MING JI